

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-80-D

RICHARD C. FOY,)
)
)
Plaintiff,)
)
)
v.)
)
UNITED STATES OF AMERICA, et al.,)
)
)
Defendants.)

ORDER

On February 14, 2017, Richard C. Foy (“Foy” or “plaintiff”) filed a motion to proceed in forma pauperis [D.E. 1] and a proposed complaint [D.E. 1-1]. On February 23, 2017, Foy filed a proposed amended complaint [D.E. 5]. On March 6, 2017, the court referred the motion to United States Magistrate Judge Jones for a frivolity review [D.E. 6]. On March 17, 2017, Magistrate Judge Jones issued a Memorandum and Recommendation (“M&R”) [D.E. 7]. In that M&R, Judge Jones recommended that Foy’s application to proceed in forma pauperis be granted and that the complaint be dismissed as frivolous.

On March 31, 2017, Foy objected to the M&R [D.E. 8]. On April 5, 2017, Foy filed a motion to appeal in forma pauperis [D.E. 9]. On April 5, 2017, Foy filed a notice of appeal [D.E. 10]. On May 26, 2017, the United States Court of Appeals for the Fourth Circuit dismissed Foy’s appeal. See [D.E. 14].

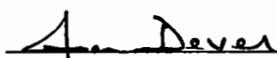
On June 9, 2017, the case was reassigned from Senior United States District Judge Fox to United States District Judge Boyle [D.E. 16]. On June 12, 2017, Foy filed a motion for the court to issue its final order [D.E. 17]. On June 23, 2017, Foy filed a motion for Judge Boyle recuse himself from the case [D.E. 18]. On July 3, 2017, the case was reassigned to the undersigned [D.E. 19].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and Foy’s objections. As for those portions of the M&R to which Foy made no objection, the court is satisfied that there is no clear error on the face of the record. As for the objections, the court has reviewed the objections and the M&R de novo. Foy’s objections are baseless and are overruled. The court adopts the conclusions in the M&R.

In sum, Foy’s application to proceed in forma pauperis [D.E. 1] is GRANTED, and Foy’s complaint is DISMISSED as frivolous. Foy’s motions to appeal in forma pauperis [D.E. 9], for the court to issue its final order [D.E. 17], and for recusal [D.E. 18] are DISMISSED. The clerk shall close the case.

SO ORDERED. This 21 day of August 2017.



JAMES C. DEVER III
Chief United States District Judge